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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/757,618	01/13/2004	David B. Lester	LES.03.01	4789
48008	7590	01/30/2006	EXAMINER	
VIRTUAL LEGAL, P.C. MICHAEL A. KERR 3476 EXECUTIVE POINTE WAY, UNIT 16 CARSON CITY, NV 89706			CHAMBERS, MICHAEL S	
			ART UNIT	PAPER NUMBER
			3711	

DATE MAILED: 01/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/757,618

Applicant(s)

LESTER, DAVID B.

Examiner

Mike Chambers

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– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4,6-16 and 21-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,6-16 and 21-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,2,4,6, and 8-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Dundas (NPL).

Dundas discloses an opaque and malleable material that is configured to receive at least one impression formed upon impact with said ball and a hitting instrument. And a deformable sheet that is thicker than said opaque and malleable material having a front face that is adhesively attached to said opaque and malleable material, said deformable sheet additionally having a back face with an adhesive material that is configured to be affixed to said hitting instrument. The strike zone is broadly interpreted to be the face of the device. The ridge is formed when the ball is struck. In as much structure set forth by the applicant in the claims, the device is capable of use in the intended manner if so desired (See MPEP 2112).

As to claim 2 : Dundas discloses a metallic material (pg 1- "Aluminum and Foam").

As to claim 4 : Dundas discloses a metallic layer that contacts the ball (pg 1). In as much structure set forth by the applicant in the claims, the device is capable of use in the intended manner if so desired (See MPEP 2112).

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As to claim 6 : Dundas discloses a metallic material (pg 1- "Aluminum and Foam"). In as much structure set forth by the applicant in the claims, the device is capable of use in the intended manner if so desired (See MPEP 2112). The dimple pattern of the ball would naturally be displayed on the foil after hitting the ball.

As to claims 8 and 12 : See claim 1 rejection. The means for determining how the ball was struck is the impression from the ball. The strike zone is broadly interpreted to be the face of the device. The dimple pattern and ridge are formed when the ball is struck.

As to claim 9 : The second sheet (foam) is thicker than said first sheet (foil).

As to claim 10 : See claim 9 rejection. The means for determining how the ball was struck is the impression left from striking the ball.

As to claim 11 : Dundas discloses aluminum (pg 1- "Aluminum ")

As to claim 13 : Dundas discloses a deformable sheet (pg 1- "Aluminum "). In as much structure set forth by the applicant in the claims, the device is capable of use in the intended manner if so desired (See MPEP 2112).

As to claim 14 : Dundas discloses a thicker deformable sheet (pg 1-).

As to claim 15 : The Dundas device would generate an impression (pg 1-). In as much structure set forth by the applicant in the claims, the device is capable of use in the intended manner if so desired (See MPEP 2112).

As to claim 16 : Dundas discloses aluminum (pg 1- "Aluminum and Foam").

Also,

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Claims 1, and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Grossman (2660436).

Grossman discloses an opaque and malleable material that is configured to receive at least one impression formed upon impact with said ball and a hitting instrument. And a deformable sheet that is thicker than said opaque and malleable material having a front face that is adhesively attached to said opaque and malleable material, said deformable sheet additionally having a back face with an adhesive material that is configured to be affixed to said hitting instrument (fig 3, 2:35-40). The strike zone is broadly interpreted to be the face of the device. The ridge is formed when the ball is struck. In as much structure set forth by the applicant in the claims, the device is capable of use in the intended manner if so desired (See MPEP 2112).

As to claim 21 : Grossman discloses golf (fig 1)

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1,2,4,6,-16, 21, 22, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Butler (5609530) in view of Dundas. Butler discloses the elements of claim 1 however it does not clearly disclose the use of an opaque material. Butler discloses any material that can leave an impression is within the scope of the invention

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(6:19-26, 31-36). It would have been obvious to one of ordinary skill in the art at the time of the invention to have employed any one of several equivalent materials including the material of Dundas based on cost ,design and durability considerations.

As to claim 2 : Dundas discloses a metallic material (pg 1- "Aluminum and Foam").

As to claim 4 : Dundas discloses a metallic layer that contacts the ball (pg 1). In as much structure set forth by the applicant in the claims, the device is capable of use in the intended manner if so desired (See MPEP 2112).

As to claim 6 : Dundas discloses a metallic material (pg 1- "Aluminum and Foam"). In as much structure set forth by the applicant in the claims, the device is capable of use in the intended manner if so desired (See MPEP 2112). The dimple pattern of the ball would naturally be displayed on the foil after hitting the ball.

As to claim 7 : Butler discloses a tab (9:10-21).

As to claims 8 and 12 : See claim 1 rejection.

As to claim 9 : The second sheet (foam) is thicker than said first sheet (foil).

As to claim 10 : See claim 9 rejection. The means for determining how the ball was struck is the impression left from striking the ball.

As to claim 11 : Dundas discloses aluminum (pg 1- "Aluminum ")

As to claim 13 : Dundas discloses a deformable sheet (pg 1- "Aluminum "). In as much structure set forth by the applicant in the claims, the device is capable of use in the intended manner if so desired (See MPEP 2112).

As to claim 14 : Dundas discloses a thicker deformable sheet (pg 1-).

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As to claim 15 : The Dundas device would generate an impression (pg 1-). In as much structure set forth by the applicant in the claims, the device is capable of use in the intended manner if so desired (See MPEP 2112).

As to claim 16 : Dundas discloses aluminum (pg 1- "Aluminum and Foam").

As to claims 21,22 and 23 : Butler discloses golf (fig 1)

Response to Arguments

Applicant's arguments with respect to claims 1,2,4,6-16 and 21-23 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mike Chambers whose telephone number is 571-272-4407. The examiner can normally be reached on Mon-Fri 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Kim can be reached on 571-272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

2660436*5609530*www.dundasjafine.com/products/energy/foilbacked.html

January 19, 2006

Michael Chambers
Examiner
Art Unit 3711


EUGENE KIM
SUPERVISORY PATENT EXAMINER